



## Ontario: Annual Statutes

---

1989

# c 73 Public Service Pension Act, 1989

Ontario

© Queen's Printer for Ontario, 1989

Follow this and additional works at: [http://digitalcommons.osgoode.yorku.ca/ontario\\_statutes](http://digitalcommons.osgoode.yorku.ca/ontario_statutes)

---

### Bibliographic Citation

*Public Service Pension Act, 1989*, SO 1989, c 73

### Repository Citation

Ontario (1989) "c 73 Public Service Pension Act, 1989," *Ontario: Annual Statutes*: Vol. 1989, Article 78.

Available at: [http://digitalcommons.osgoode.yorku.ca/ontario\\_statutes/vol1989/iss1/78](http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1989/iss1/78)

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Annual Statutes by an authorized administrator of Osgoode Digital Commons.

## CHAPTER 73

### An Act to revise the Public Service Superannuation Act

*Assented to December 18th, 1989*

#### CONTENTS OF ACT

##### Section

1. Definitions
2. Application
3. Plan continued
4. Plan documents
5. Public Service Superannuation Fund continued
6. Future revision of Plan
7. Transfer of SAF Account
8. Initial unfunded liability
9. Interim payments of unfunded liability
10. Initial valuation

##### Section

11. Subsequent valuations
12. Payment of pensions under other Acts
13. Expiry of appointments
14. Continued application
15. *Superannuation Adjustment Benefits Act* ceases to apply
16. Post-retirement marriage
17. Repeals
18. Commencement
19. Short title

#### CONTENTS OF SCHEDULE 1

##### Section

1. Definitions
2. Plan members
3. Termination of membership
4. Persons not entitled to be members
5. Contributions to and payments from Fund
6. Contributions by members
7. Contributions by employer
8. Leave of absence with pay
9. Continued membership on release from employment
10. Long term income protection
11. Prior service with the Crown, etc.
12. Contribution, salary and service record
13. Refunds before twenty-four months membership
14. Disability pension
15. Pension at age sixty-five
16. Deferred pension
17. Computation of pension
18. Application for pension
19. Pension to surviving spouse
20. Increased survivor pension

##### Section

21. Post-retirement marriage
22. Survivor pension on death before payment of pension
23. Survivor pension for pre-1987 credit
24. Inflation adjustment
25. Pre-retirement part-time employment
26. Re-employment of pensioner
27. Void transactions
28. Payment to estate
29. Board to be corporation
30. Remuneration
31. Duty of Board
32. Powers of Board
33. Committees
34. Quorum
35. Expenses
36. Reciprocal transfer agreements continue to apply
37. Annual report
38. Report re O.P.P. early retirement benefit
39. Indemnification

## CONTENTS OF SCHEDULE 2

## Interim payments of unfunded liability

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1.** In this Act, “actuary”, “Board”, “Crown”, “employer”, “Fund”, “member”, “Minister”, “pension”, “pension benefit”, “Plan”, “salary” and “Treasurer” have the same meaning as in section 1 of Schedule 1.

## Application

**2.** Subject to subsection 14 (2) and to section 24 of Schedule 1, this Act applies to every person employed after the 31st day of December, 1989 in the service of an employer.

Plan  
continued  
R.S.O. 1980,  
cc. 419, 490

**3.** The pension plan contained in the provisions of the *Public Service Superannuation Act* and the regulations thereunder, including the benefits provided under the *Superannuation Adjustment Benefits Act* in relation to pensions provided under the *Public Service Superannuation Act*, is continued as the Public Service Pension Plan as revised by this Act and set out in Schedule 1.

Plan  
documents

**4.** The terms of the Plan are those set out in Schedule 1, in this Act and in such other documents concerning the Plan as are created under this Act or Schedule 1.

Public  
Service  
Superan-  
nuation Fund  
continued

**5.—(1)** The Public Service Superannuation Fund established under the *Public Service Superannuation Act* is continued as the Public Service Pension Fund to provide benefits in respect of the Plan.

Board to  
administer

**(2)** The Plan and the Fund shall be administered by the Board in accordance with this Act and the Plan.

Future  
revision of  
Plan

**6.—(1)** The Lieutenant Governor in Council by order may amend the Plan and, without restricting the generality of the foregoing, may,

- (a) determine the methods or assumptions to be used to calculate any pension benefit provided under the Plan;
- (b) rescind the Plan and replace it with another pension plan;
- (c) extend, modify or restrict the conditions upon which persons may become members of the Plan;

- (d) establish a separate pension plan or plans for any class or classes of persons who are members of the Plan, and direct the transfer from the Fund to any fund related to such separately established pension plan or plans of any amount specified to represent the value, as determined by an actuarial valuation, of the pension benefits of persons who will be members of such separately established pension plan or plans;
- (e) increase or prospectively reduce, eliminate or modify any pension benefit set out in the Plan or the rate or amount of contribution to be made under the Plan;
- (f) regulate the administration of the Plan and the composition, duties and powers of the Board;
- (g) exercise with respect to any plan established under this section the powers conferred by this section.

(2) To the extent that an amendment of the Plan made under subsection (1) conflicts with the *Pension Benefits Act, 1987* in a matter in which the conflict is not authorized by this Act or Schedule 1, the amendment is void. Limitation re amendment  
1987, c. 35

(3) If the Crown enters into an agreement for an indefinite term with representatives of a majority of the members with respect to, Agreement  
for joint  
responsibility

- (a) the joint management of the Plan and the Fund by the Crown and representatives of the members;
- (b) the sharing between the Crown and the members of surpluses and deficiencies in the Fund;
- (c) prior consultation between the Crown and the representatives to determine if agreement can be reached between them concerning any change in benefits under the Plan or in the rate or amount of contributions to the Fund from the Crown or the members; and
- (d) mediation procedures following a failure to agree on a change in benefits under the Plan or in the rate or amount of contributions to the Fund,

the powers mentioned in subsection (1) shall, while the agreement remains in force, be exercised only in accordance with the agreement.

Idem

(4) An agreement mentioned in subsection (3) may also provide that, to the extent specified in the agreement, subsections 11 (2) and (5) cease to apply while the agreement is in force.

Agreement  
for member  
responsibility

(5) If it is agreed between the Crown and representatives of a majority of members that the management of the Plan, the entitlement to surpluses in the Fund and the liability for deficiencies in the Fund will be permanently assumed by the members from time to time of the Plan and that the liability of the Crown to contribute to the Fund will be limited to a specified amount or to a specified percentage of members' contributions or salaries, the Lieutenant Governor in Council may provide by order that the powers mentioned in subsection (1) shall be exercised thereafter only in accordance with the agreement and by the person, persons or entity specified in the agreement.

Application  
of  
R.S.O. 1980,  
c. 446

(6) The *Regulations Act* does not apply with respect to an order amending the Plan.

Transfer of  
SAF Account

7.—(1) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*.

R.S.O. 1980,  
cc. 419, 490

Transfer of  
O.P.P.  
Supple-  
mentary  
Benefits  
Account

(2) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Ontario Provincial Police Supplementary Benefits Account maintained in the Consolidated Revenue Fund under Order in Council 196/85.

Interest

(3) As of the 31st day of December, 1989, the Treasurer shall pay to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* interest at the rates and on the terms determined by the Lieutenant Governor in Council on the cash balances that from time to time stood to the credit of,

- (a) the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*;

R.S.O. 1980,  
c. 419

- (b) the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*; and R.S.O. 1980, c. 490
- (c) the Ontario Provincial Police Supplementary Benefits Account mentioned in subsection (2),

in the period from the 1st day of April, 1989 to the 31st day of December, 1989.

(4) Interest payable by the Treasurer on assets held on the 1st day of April, 1989 in the accounts referred to in clauses (3) (a), (b) and (c) shall be accrued to the 31st day of December, 1989 and paid as of that date to the Public Service Superannuation Fund Account despite a later time for payment specified in any instrument that provides for payment of the interest, and the payment made to the Account reduces the liability of the Treasurer under the instrument for interest by the amount paid. Idem

(5) Payments by the Treasurer made under subsections (3) and (4) shall be made from the Consolidated Revenue Fund. Idem

(6) As of the 1st day of January, 1990, the Treasurer shall transfer to the custody and control of the Board the total amount of the assets on the 31st day of December, 1989 of the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*, including assets and payments transferred or made to that account under this section, by issuing to the Board debentures of the Province of Ontario that are equal to the amount of the assets and that, in the opinion of the Treasurer, provide for the payment of principal and interest on terms substantially equivalent to those on which the assets are held on the 31st day of December, 1989. Transfer of PSSF Account  
R.S.O. 1980, c. 419

(7) All liabilities on the 1st day of January, 1990 of the accounts mentioned in subsections (1), (2) and (6) are liabilities of the Fund on and after that date and, as of that date, the accounts cease to exist in the Consolidated Revenue Fund. Liabilities transferred to Fund

(8) During the period from the 31st day of December, 1989 to the 30th day of June, 1990, the Treasurer may establish outside the Consolidated Revenue Fund an account or accounts for such temporary period as the Treasurer considers advisable to facilitate the orderly transfer to the Board of the assets of the Fund and the administration of the Plan. Temporary account authorized

## Debentures

(9) For the purpose of subsection (6), the Treasurer may, on behalf of Ontario, issue to the Fund debentures of Ontario in such amounts, upon such terms as to the payment of principal and interest, maturing at such time or times and either with or without the privilege of prepayment of the whole or any part of the principal amount of any such debenture as will, in the opinion of the Treasurer, meet the requirements of this section, and any debenture may provide that it is not assignable or transferrable.

Investments  
authorized  
1987, c. 35

(10) Despite the *Pension Benefits Act, 1987* and regulations thereunder, the receipt and holding by the Board of debentures issued under this section shall not be considered imprudent or unreasonable or contrary to that Act and regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board and any committee of the Board in determining future investments of the assets of the Plan.

Application  
of  
1987, c. 35

(11) Section 82 of the *Pension Benefits Act, 1987* does not apply to the transfers described in this section.

Initial  
unfunded  
liability

**8.—(1)** In this section and in sections 9 and 10 and subsection 11 (3),

“actuarial gain” and “actuarial loss” mean, respectively, the sum, if positive, or the sum, if negative, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding going concern valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based,
- (b) the amount by which the going concern liabilities decrease as a result of an amendment to the Plan, and
- (c) the amount by which the going concern liabilities decrease or the going concern assets increase as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based, as of the review date for a going concern valuation,

but clause (a), (b) or (c) or any combination thereof shall be counted as a negative in the calculation of the sum if,

- (d) the experience of the Plan results in a loss rather than a gain,
- (e) an amendment increases the going concern liabilities, or
- (f) a change in actuarial methods or assumptions results in an increase in going concern liabilities or a decrease in going concern assets, as the case may be;

“going concern assets” means the value of the assets of the Plan, including accrued and receivable income and the present value of future contributions and investment income, determined on the basis of a going concern valuation;

“going concern liabilities” means the present value of the expenses of the Plan and the accrued and unaccrued benefits of the Plan determined on the basis of a going concern valuation;

“going concern unfunded actuarial liability” means the excess of going concern liabilities over going concern assets;

“going concern valuation” means a valuation of assets and liabilities of the Plan using methods and actuarial assumptions considered by the actuary who valued the Plan to be in accordance with generally accepted actuarial principles and practices for the valuation of a continuing pension plan;

“initial valuation” means the going concern valuation of the Plan as at the 1st day of January, 1990 required by section 10;

“past service unfunded actuarial liability” means the amount of going concern unfunded actuarial liability that results from the provision of benefits with respect to prior employment for which no benefit was provided at the time of the employment or from an amendment to the Plan that provides benefits for employment prior to the date of the amendment if the employment had not previously been recognized for purposes of the provision of pension benefits;

“review date” means the last date of the period under review in a report required under the *Pension Benefits Act, 1987* or regulations thereunder; 1987, c. 35

“solvency assets” means the sum determined in accordance with subsections (2) and (3) of,



- (a) the market value of investments held by the Plan or a value related to the market value by means of an averaging method that stabilizes short-term fluctuations of the market values over a period of not more than five years, plus any cash balances and accrued or receivable income items,
- (b) the present value of any special payments required to liquidate any past service unfunded actuarial liability established on or after the 1st day of January, 1988,
- (c) the present value of any special payments other than those referred to in clause (b) established on or after the 1st day of January, 1988 that are scheduled for payment within five years after the review date, and
- (d) the present value of future special payments resulting from the initial valuation;

“solvency deficiency” means the excess of the solvency liabilities over the solvency assets;

“solvency gain” means the sum, if positive, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
- (b) the amount by which the solvency liabilities decrease or the solvency assets increase during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities as a result of a change in the actuarial methods or assumptions upon which the current valuation of solvency assets and solvency liabilities is based,

but either of clause (a) or (b) shall be counted as a negative in the calculation of the sum if the experience of the Plan results in a loss rather than a gain or if a change in actuarial methods or assumptions results in an increase in solvency liabilities or a decrease in solvency assets, as the case may be;

“solvency liabilities” means an amount that is not less than the liabilities of the Plan determined as if the Plan had been wound up, taking into account liabilities for the adjustment for inflation under the Plan and the requirements of section 75 of the *Pension Benefits Act, 1987*.

1987, c. 35

(2) The present values referred to in clauses (b), (c) and (d) of the definition of “solvency assets” shall be determined on the basis of the assumed interest rate used in determining whether there is a solvency deficiency.

Present values re solvency assets

(3) In calculating the solvency assets, if there is no market value for an investment of the Plan and the investment is issued or guaranteed by a government, the book value of the investment may be used instead of market value.

If no market value

(4) The provisions of this section and of sections 9, 10 and 11 prevail over any conflicting provisions of the *Pension Benefits Act, 1987* or of a regulation made under that Act.

Conflicting provisions

9.—(1) For each month in the period commencing with the 1st day of January, 1990 and ending with the last day of the month in which the initial valuation is approved by the Pension Commission of Ontario, the Treasurer shall pay to the Fund from the Consolidated Revenue Fund the amount shown for that month in Schedule 2.

Interim payments of unfunded liability

(2) The Treasurer may, with the appropriate adjustment for interest, at any time prepay one or more of the outstanding payments shown in Schedule 2.

Prepayment

(3) Payments made under subsection (1) or (2) shall be credited against any special payments that are to be made in the same period to liquidate a going concern unfunded actuarial liability disclosed by the initial valuation, and any amount by which the payments made under those subsections are less than the special payments for that period as a result of the initial valuation shall be paid by the Treasurer to the Fund from the Consolidated Revenue Fund within fifteen months following the month when the initial valuation is approved by the Pension Commission of Ontario.

Application of estimated payments

10.—(1) As soon as practicable after the 31st day of December, 1989, the Board shall cause to be prepared a going concern valuation of the Plan as at the 1st day of January, 1990, and the valuation shall include the adjustment of pensions for inflation under the Plan.

Initial valuation

(2) The initial valuation shall,

Idem

- (a) comply with this section and section 11;
- (b) be delivered by the actuary to the Board and to the Minister and the Treasurer, and shall be filed with the Pension Commission of Ontario by the Board only after the Minister and the Treasurer have advised the Board in writing that they agree that the initial valuation delivered to them be filed; and
- (c) for all purposes of the Plan determine the going concern unfunded actuarial liability or surplus of the Plan as at the 1st day of January, 1990.

Liability  
liquidated

(3) Any going concern unfunded actuarial liability disclosed by the initial valuation shall be liquidated by a series of special payments from the Consolidated Revenue Fund to be made over the forty years commencing on the 1st day of January, 1990.

Calculation  
of special  
payments

(4) Each special payment mentioned in subsection (3) shall be calculated as a constant percentage of the projected future earnings from employment used to calculate pension benefits during the forty years commencing on the 1st day of January, 1990 of all persons who are members of the Plan on that date and of those who are expected to join the Plan during those forty years.

Present value  
of special  
payments

(5) The present value, as at the 1st day of January, 1990, of the full series of special payments shall equal the amount of the going concern unfunded actuarial liability to be liquidated.

Schedule of  
payments

(6) The actuary shall prepare and submit with the initial valuation a schedule showing the dollar amount of each special payment in the first six years of the series and the formula by which the dollar amount of the remaining special payments in the series is determined.

Prepayments  
and  
additional  
payments

(7) The Treasurer may, at any time, prepay a part or all of any outstanding special payments or may make additional payments to the Fund to be applied, with appropriate adjustments for interest, as the Treasurer shall direct to reduce the going concern unfunded actuarial liability disclosed by the initial valuation, and every such payment may be paid out of the Consolidated Revenue Fund.

Consistent  
assumptions

(8) Subject to subsection (4),

- (a) the projected future earnings from employment used to calculate pension benefits shall be deter-

mined using actuarial assumptions consistent with those made in the initial valuation;

- (b) the present value of the series of special payments shall be determined using the interest rate used in the initial valuation; and
- (c) all other actuarial assumptions made in the determination of the series of special payments shall be, so far as possible, consistent with actuarial assumptions made in the initial valuation.

**11.—(1)** A going concern valuation of the Plan made after the initial valuation shall include the present value of the outstanding special payments calculated under section 10 that remain to be made to liquidate the going concern unfunded actuarial liability disclosed by the initial valuation, and the actuary shall prepare and submit with the valuation a schedule showing the amount, determined from the formula mentioned in subsection 10 (6), of each remaining special payment for the next six years or for the period of time for which special payments remain to be made, whichever is shorter.

Subsequent  
valuations

**(2)** Any actuarial gain disclosed by a going concern valuation made after the initial valuation shall be applied in the following order and manner:

Application  
of actuarial  
gain

1. The amount of the gain shall first be applied to reduce, and to eliminate if possible, the payments required to liquidate any unamortized balance of a solvency deficiency disclosed by the initial valuation or a subsequent valuation.
2. When no solvency deficiency remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, a going concern unfunded actuarial liability disclosed by a valuation after the initial valuation.
3. When no other going concern unfunded actuarial liability remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, the unliquidated amount of the going concern unfunded actuarial liability disclosed by the initial valuation.

**(3)** In determining any solvency gain or solvency deficiency of the Plan, solvency assets shall include the present value of future special payments resulting from the initial valuation.

Special  
payments a  
solvency  
asset

When special  
payments  
cease

(4) When the special payments made as a result of the initial valuation, the prepayments and additional payments made under subsection 10 (7), and the actuarial gains applied under paragraph 3 of subsection (2) have liquidated the going concern unfunded actuarial liability disclosed by the initial valuation, no further special payments shall be made, notwithstanding that the period of forty years used in the initial valuation has not then expired.

Minister to  
approve  
valuation

(5) No valuation of the Plan after the initial valuation shall be filed by the Board with the Pension Commission of Ontario until the Minister has advised the Board in writing that he or she agrees that the valuation be filed.

Payment of  
pensions  
under other  
Acts  
R.S.O. 1980,  
cc. 419, 490

**12.** Every allowance, annuity, deferred annuity or other payment under the *Public Service Superannuation Act* or a predecessor Act or under the *Superannuation Adjustment Benefits Act*, including any payment authorized to be made from the Consolidated Revenue Fund, that, before the 1st day of January, 1990, a person is receiving, is entitled to receive, or is entitled to receive with the payment thereof deferred until the year 1990 or later, shall be paid out of the Fund in accordance with the Act under which entitlement to the payment arose.

Expiry of  
appointments

**13.** On the 31st day of December, 1989, the term of appointment of any person under the *Public Service Superannuation Act* as a member of the Public Service Superannuation Board expires.

Continued  
application

**14.—(1)** The *Public Service Superannuation Act*, as it read on the 31st day of December, 1989, continues to apply to the computation or payment of every allowance, annuity, deferred annuity or payment to the payment of which a person has become entitled under that Act prior to that date, and continues to apply in respect of every person who, within the meaning of that Act, has ceased to be a contributor before that date and is entitled to a deferred annuity under that Act.

Exception  
for re-  
employment

(2) A person mentioned in subsection (1) who is re-employed in the service of the Crown or who becomes a member of the Plan, on or after the 1st day of January, 1990, for a prescribed period of time and in prescribed circumstances, terms or conditions, and who is required by, or entitled under, the Plan to contribute to the Fund in respect of such re-employment, may participate in the Plan to the extent prescribed with respect to the computation or payment of a pension or other payment and subsection (1) does not apply in the circumstances.

(3) The Lieutenant Governor in Council may make regulations prescribing a period or periods of time and prescribing circumstances, terms or conditions and the extent of participation in the Plan for the purpose of subsection (2). Regulations

**15.** The provisions of the *Superannuation Adjustment Benefits Act* relating to the payment of, or contribution for, adjustment benefits or any other benefit described in that Act in respect of any allowance, annuity, deferred annuity or other payment arising under the *Public Service Superannuation Act* cease to apply on and after the 1st day of January, 1990. R.S.O. 1980,  
c. 490 ceases  
to apply  
  
R.S.O. 1980,  
c. 419

**16.—(1)** A contributor as defined in the *Public Service Superannuation Act* who, Post-  
retirement  
marriage

- (a) is being paid an allowance or annuity under that Act;
- (b) has no spouse entitled to a survivor allowance under section 20 of that Act; and
- (c) becomes the spouse of a person who would not be entitled on the death of the contributor to a survivor allowance under section 20 of that Act,

may in writing direct the Board to pay to the person, if he or she survives the death of the contributor, a survivor allowance under section 20 of that Act for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity received by the contributor immediately before his or her death.

(2) A direction mentioned in subsection (1) must be delivered to the Board, Time limit

- (a) within ninety days after the date on which the contributor became the spouse of the person to whom the survivor allowance is directed to be paid; or
- (b) if immediately before the person becomes the spouse of the contributor there is a child of the contributor who would be entitled on the contributor's death to receive an allowance under the *Public Service Superannuation Act*, within ninety days after the date the child ceases to be entitled to receive the allowance;
- (c) the 30th day of June, 1990; or

- (d) the last day of the sixth month following the month in which this Act receives Royal Assent.

Exception

(3) The Board may accept a direction delivered after the time mentioned in subsection (2) if the Board is satisfied that the contributor is in good health having regard to his or her age.

Actuarial  
reduction of  
allowance

(4) The annuity or allowance payable to a contributor who has given a direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor allowance directed to be paid and, subject to subsection (5), and to section 20 of the *Public Service Superannuation Act*, the survivor allowance shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the contributor.

R.S.O. 1980,  
c. 419

Prior interest  
of child

(5) A survivor allowance under this section shall not be paid while there is a child of the deceased contributor entitled to receive an allowance as a result of the death of the contributor.

Refund when  
no survivor  
allowance  
payable

(6) If a contributor who is in receipt of an allowance or annuity dies survived by a child or children under eighteen years of age or by a spouse from whom the contributor is not living separate and apart, and if none of them is entitled to a survivor allowance under section 20 of the *Public Service Superannuation Act*, this section or that Act as a result of the death of the contributor, the amount, if any, by which twice the total of contributions made under the *Public Service Superannuation Act* to the Public Service Superannuation Fund by or on behalf of the contributor and of the interest credited in that Fund to the contributor exceeds the total payments made from the Fund and the Public Service Superannuation Fund to the contributor shall be paid from the Fund to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the contributor under eighteen years of age at the contributor's death.

Repeals

**17.—**(1) The following are repealed on the 1st day of January, 1990:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, excluding subsection 20 (7).
2. Item 13 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.

3. The *Public Service Superannuation Amendment Act, 1983*, being chapter 44.
4. Section 3 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.
5. The *Public Service Superannuation Amendment Act, 1984*, being chapter 22.
6. Section 74 of the *Family Law Act, 1986*, being chapter 4.
7. The *Public Service Superannuation Amendment Act, 1986*, being chapter 12.
8. Section 60 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.

(2) Subsection 20 (7) of the *Public Service Superannuation Act* is repealed on the 31st day of December, 1989. Idem

**18.** This Act comes into force on the 31st day of December, 1989. Commence-  
ment

**19.** The short title of this Act is the *Public Service Pension Act, 1989*. Short title



## SCHEDULE 1

## PUBLIC SERVICE PENSION PLAN

## Definitions

## 1. In this Schedule,

"actuary" means a Fellow of the Canadian Institute of Actuaries;

"annual salary rate" means the hourly, weekly or other rate at which a person's salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

"average annual salary" means the average of the member's annual salary rate in each month of the period of sixty consecutive months of membership in the Plan that produces the highest average, but if the member does not have a period of sixty consecutive months of membership in the Plan, "average annual salary" means the average of the member's annual salary rate in each month of the member's longest period of consecutive months of membership in the Plan;

R.S.C. 1985,  
c. C-8

"average year's maximum pensionable earnings", with respect to any member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member ceases to be a member of the Plan and for each of the two preceding years;

"Board" means the Public Service Pension Board referred to in this Schedule;

1986, c. 4

"child" has the same meaning as in the *Family Law Act, 1986*;

"continuous", in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

"credit", when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member's employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member's employment for which contributions are made to the Fund;

"Crown" means the Crown in right of Ontario;

"employer" means,

(a) the Crown,

(b) an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as an employer for the purposes of the Plan,

(c) the Provincial Auditor, and

- (d) the employer of persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act;

“former member” means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

- (a) is entitled, either immediately or at a future time, to payment of a pension under the Plan, or
- (b) is entitled to receive any other payment under the Plan;

“Fund” means the Public Service Pension Fund;

“member” means a person,

- (a) who is required to join the Plan,
- (b) who is designated for the purpose of section 9 of the Plan, or
- (c) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

“Minister” means the Chairman of the Management Board of Cabinet;

“pension” means a pension benefit that is being paid to a person under the Plan;

“pension benefit” means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

“Plan” means the Public Service Pension Plan set out in this Schedule;

“salary”, in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member’s salary;

“spouse” means either of a man and woman who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
  - (i) continuously for a period of not less than three years, or
  - (ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act*, 1986, c. 4 1986, of a child;

“Treasurer” means the Treasurer of Ontario and Minister of Economics.

2.—(1) The following persons and classes of persons who have not attained sixty-five years of age are members of the Plan: Plan members

R.S.O. 1980,  
c. 418

1. Persons who are civil servants within the meaning of the *Public Service Act*.
2. A class of employees of any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that is designated by order of the Lieutenant Governor in Council as one whose employees in that class are required to be members of the Plan.
3. Persons employed in the Office of the Provincial Auditor.

R.S.O. 1980,  
c. 419

4. Persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act.
5. Any person employed in a capacity or position that is designated by order of the Lieutenant Governor in Council as requiring the employee to be a member of the Plan.

Elective  
membership

(2) Persons to whom subsection (1) does not apply and who are employed,

R.S.O. 1980,  
c. 418

- (a) by the Crown under the *Public Service Act*;
- (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class are members of the Plan; or
- (c) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are by any Act required to be members of the Plan,

are entitled to be members of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the order mentioned in clause (b).

Idem

(3) A person appointed by the Lieutenant Governor in Council to membership on an agency, board, commission, foundation or organization is, when the appointment so permits or the position has been designated by the Lieutenant Governor in Council for the purpose of this subsection, entitled to be a member of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the appointment or designation.

Termination  
of  
membership

3. A member ceases to be a member of the Plan upon termination by death or otherwise of the employment, office or circumstances that required or entitled him or her to be a member of the Plan or upon attaining the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.

R.S.C. 1952,  
c. 148

Persons not  
entitled to be  
members

4. A person is not entitled to be a member of the Plan if the person,

R.S.C. 1985,  
c. C-8

- (a) is a member of, or a contributor to, a pension plan to which the Crown contributes other than this Plan or the *Canada Pension Plan*; or
- (b) has attained the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.

5.—(1) Subject to section 7, contributions required to be made under this Plan by an employer or by any member, including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.

Contributions  
to and  
payments  
from Fund

(2) The fiscal year of the Plan is the twelve-month period commencing on the 1st day of January in each year.

Fiscal year

6.—(1) Subject to subsection (5), every member shall contribute to the Fund from the salary paid to the member for the calendar year,

Contributions  
by members

(a) 8 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

R.S.C. 1985,  
c. C-8

(b) 6.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

(2) In addition to the contribution required by subsection (1), every member employed in the Ontario Provincial Police Force shall contribute to the Fund an amount equal to 2 per cent of the salary paid to him or her for the calendar year.

Additional  
contribution

(3) The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.

Deduction of  
contributions

(4) A member shall be given credit in the Plan for the time in respect of which contributions to the Fund are made by or on behalf of the member.

Credit for  
contributions

(5) A member may cease to contribute to the Fund on or after attaining sixty-five years of age.

When no  
contribution  
required

(6) Interest calculated as determined by the Board shall be credited to each member in each year of the Plan on the amount of contributions, including interest previously credited to the member, standing to the member's credit in the Fund.

Interest

7.—(1) Unless otherwise expressly stated in the Plan, for each month the employer shall pay into the Fund an amount equal to the amount of contributions paid into the Fund by or on behalf of members in that month.

Contributions  
by employer

(2) If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Minister for the purpose.

Special funds

(3) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence may, at the direction of the Minister, be applied to the payment of the contributions to be made by the employer

Surplus may  
reduce  
employer  
contributions

under subsection (1) for so long as there is no going concern unfunded actuarial liability or solvency deficiency, as defined in subsection 8 (1) of this Act, in the Plan.

**Surplus** (4) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence or upon its wind up may, to the extent permitted by the *Pension Benefits Act, 1987*, be withdrawn by the employer from the Fund.

**Deficiency** (5) If in any year the amount of cash and assets capable of sale in the Fund is insufficient to meet the payments out of the Fund in the year after the sale of the assets capable of sale, the Treasurer shall pay from the Consolidated Revenue Fund an amount sufficient to make up the deficiency.

**Limitation** (6) Subsection (5) ceases to apply if an agreement mentioned in subsection 6 (5) of this Act is in force.

**Unfunded liabilities** (7) Subject to this Act, the employer shall pay into the Fund the amount indicated in an actuarial valuation to be required to meet any unfunded liabilities of the Plan.

**Leave of absence with pay** 8.—(1) If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by section 6.

**Leave of absence without pay** (2) If a member is granted a leave of absence from employment and receives no salary during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless the member contributes to the Fund in accordance with section 11.

**Continued membership on release from employment** 9.—(1) A member who is released from employment and who is designated by the Lieutenant Governor in Council for the purpose of this section continues to be entitled to contribute to the Fund in accordance with this section until the end of the month in which the member becomes eligible for a pension under section 15, or until the expiration of five years from the member's release from employment, whichever first occurs.

**Contributions** (2) Contributions by or on behalf of a member mentioned in subsection (1) shall be made on the basis of the member's annual salary rate immediately before the member was released from employment.

**Long term income protection** 10.—(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the *Public Service Act*, to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.

**Contribution on behalf of disabled member** (2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (6), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.

**Amount** (3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.

(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

Part-time  
employment

(5) The annual salary rate on which contributions under this section are based shall be increased in each year following the year in which the member first qualified for a benefit by the same percentage as would be applicable if the annual salary rate of the member immediately before the cessation of employment as a result of disability were increased in each subsequent year during which the member remains entitled to benefits under the Long Term Income Protection Plan in the same manner as an adjusted pension is increased in each year by the adjustment for inflation under section 24.

Increased  
contribution

(6) Subsections (2), (3), (4) and (5) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member, accrues thirty-five years of credit in the Plan or attains sixty-five years of age, whichever first occurs.

When  
contributions  
cease

(7) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

Continued  
membership

(8) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member on whose behalf contributions are made under this section.

Average  
annual salary

11.—(1) On such terms and conditions as are fixed by the Board, a member may purchase credit in the Plan,

Prior service  
with the  
Crown, etc.

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by order of the Lieutenant Governor in Council;

(b) for a period of service with an employer who contributed to the Fund or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

(c) for a period of employment by a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member's becoming a member and if,

(i) during that period of service, the person provided to employees a pension plan that is or was a pension plan registered under the *Income Tax Act* (Canada), and

R.S.C. 1952,  
c. 148

(ii) the period, if any, for which credit in the plan referred to in subclause (i) was given to the member is reduced by the period for which credit in the Plan is purchased so that credit in the Plan is not given for any part of the period for which credit is retained in the plan referred to in subclause (i);

(d) for a leave of absence without pay for more than one month for special or educational purposes; or

(e) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.

Payment

(2) To purchase credit referred to in clause (1) (c), a member shall pay to the Fund the amount determined by the Board on the recommendation of the actuary to be equal to the actuarial value of the additional expected benefits to which the member will become entitled because of obtaining the credit.

Idem

(3) To purchase the credit referred to in clause (1) (b) or (e), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) the contribution rates determined under subsection 6 (1); and

(c) the length in years of the period of prior service for which credit is purchased.

Idem

(4) Despite subsection (3), if any payment has been made from the Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1) (b), and if the total amount paid, including interest thereon at such rate as the Board determines, exceeds the amount determined under subsection (3) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount.

Idem

(5) To purchase credit referred to in clause (1) (a) or (d), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) twice the contribution rates determined under subsection 6 (1); and

(c) the length in years of the period of prior service for which credit is purchased.

Limitation

(6) Any credit referred to in subsection (1) may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

(a) the day on which the member for whom credit is to be purchased became a member of the Plan;

(b) the last day of the most recent continuous period for which credit is being purchased; or

(c) the 31st day of December, 1989.

Instalments

(7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.

(8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (5) or section 36.

Matching  
payments  
required

12. The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

Contribution,  
salary and  
service  
record

13.—(1) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires.

Refunds  
before  
twenty-four  
months  
membership

(2) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12).

Refund  
before ten  
years  
membership

(3) A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by subsection (12) if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

Refund  
before age  
forty-five

(4) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires, and to the payment provided by subsection (14).

Refund after  
age sixty-five

(5) A member who has attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12) and to the payment provided by subsection (14).

Idem

(6) When the cessation of membership referred to in subsection (1), (2), (4) or (5) occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those subsections, but not a payment described in subsection (14), shall be paid to the member's estate.

Refund on  
death where  
no survivor

(7) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the member's estate is entitled to be paid the refund provided by subsection (12).

Idem

(8) Despite subsections (1), (2), (4) and (5), if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate

Refund on  
death to  
survivor



and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

- (a) if the death is a cessation of membership referred to in subsection (1) or (4), to the refund provided by either or both of subsections (12) and (13) and to the payment provided by subsection (14); or
- (b) if the death is a cessation of membership referred to in subsection (2) or (5), to the refund provided by subsection (12) and to the payment provided by subsection (14).

Refund when  
contributions  
exceed  
pension

(9) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member under subsection 6 (6) exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to the former member's estate.

Idem

(10) Despite subsection (9), if a former member who is in receipt of a pension dies survived by a child or children under eighteen years of age or by a spouse from whom the former member is not living separate and apart, and if none of them is entitled to a survivor pension under the Plan as a result of the death of the former member, the amount, if any, by which the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14) exceeds the total payments made from the Fund to the former member shall be paid to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the former member under eighteen years of age at the former member's death.

Refund for  
disabled  
member

(11) Despite subsections (1), (2), (4) and (5), a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of a mental or physical incapacity that is found by the Board to have rendered the member unable to perform his or her duties is entitled to be paid from the Fund the amount, if any, by which,

- (a) the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14),

exceeds,

- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under subsection (15).

Pre-1987  
service  
refund

(12) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor fund by or on behalf of the member in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund to the member.

Post-1986  
service  
refund

(13) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor Fund by or on behalf of the member in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited in the Fund to the member.

Additional  
payment

(14) A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

- (a) the amount of a refund to which the person is also entitled under either or both of subsections (12) and (13),

less,

- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsection 11 (2) or (5) or section 36 and interest credited to the member in respect thereof.

(15) The amount by which the total of the contributions, other than contributions made under subsection 11 (2) or (5) or section 36, made to the Fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsection 11 (2) or (5) or section 36 in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member shall be refunded to the former member. 50 per cent rule

(16) The amount by which the total of the payment to the Fund made under subsection 11 (2) or (5) or section 36 and the interest credited to the member on that payment in accordance with the *Pension Benefits Act, 1987* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to transfer under subsection 16 (6) shall be refunded to the former member. Excess past service payments refunded 1987, c. 35

(17) A payment or refund to be made under this section shall be paid in a lump sum payment. Lump sum payments

(18) A refund made under this section, other than subsection (15), reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated. Credit reduced

(19) For the purpose of subsections (6), (7), (8) and (9), a child shall not be deemed to have attained eighteen years of age if the child would not, for the purpose of section 23, be deemed to have attained that age. Interpretation

14.—(1) Every member with ten or more years of credit or with ten or more years of continuous membership in the Plan who is found by the Board to be unable to perform his or her duties by reason of mental or physical incapacity is entitled to a disability pension under this section upon applying therefor to the Board and upon resigning from employment. Disability pension

(2) The Board may at any time review the case of any former member to whom a pension under subsection (1) is paid and, if, in the opinion of the Board, the former member has recovered sufficiently to perform his or her former duties, or to perform other duties in the public service, the Board shall report the case to the Human Resources Secretariat and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, and the former member shall be considered for re-employment. Review by Board

(3) If a former member to whom a pension under this section is paid is offered re-employment after the review referred to in subsection (2), the former member ceases to be entitled to receive payment of any further pension under this section whether or not the offer of re-employment is accepted. Re-employment

Other  
pension  
entitlement  
not affected

(4) The termination of the payment of a pension under this section in accordance with subsection (3) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan.

Pension at  
age sixty-five

15.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Pension at  
age sixty

(2) Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.

Ninety-year  
rule

(3) Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.

Retirement  
from O.P.P.

(4) Every member who has at least thirty years of credit in the Plan, who is a member of the Ontario Provincial Police Force when he or she ceases to be a member of the Plan, and who ceases to be a member of the Plan on or after attaining fifty years of age is entitled to a pension computed in accordance with the Plan.

Payment

(5) Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.

Deferred  
pension

16.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, who ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15 is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Payment of  
pension  
under  
subs. (1)

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.

Pre-1966  
credit

(3) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15, is entitled to a pension computed in accordance with the Plan.

Payment of  
pension  
under  
subs. (3)

(4) Payment of the pension provided for in subsection (3) shall commence in the month following the month when the former member will attain sixty years of age or, if the former member so elects in writing to the

Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

(5) An election made under subsection (2) or (4) may, with the approval of the Board, be revoked by the member or former member and a fresh election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the fresh election is delivered to the Board nor earlier than is permitted by subsection (2) or (4), whichever is applicable, and is not later than the latest month permitted by subsection (2) or (4), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

Revocation  
of election

(6) A former member who is entitled to a pension under subsection (1) or (3) and who has not attained fifty-five years of age in the case of a pension mentioned in subsection (1) or has not attained fifty years of age in the case of a pension mentioned in subsection (3) may require the commuted value of the pension to be paid, subject to section 43 of the *Pension Benefits Act, 1987* and to the regulations made under that Act,

Transfer of  
commuted  
value of  
pension

1987, c. 35

(a) to the pension fund of another pension plan that agrees to accept the payment;

(b) into a retirement savings arrangement prescribed under the *Pension Benefits Act, 1987*; or

(c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in subsection (1), or fifty years of age, if the pension the commuted value of which is paid is mentioned in subsection (3), and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act, 1987*.

17.—(1) Subject to subsections 15 (1) and 16 (1) and to the other subsections of this section, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year, to a maximum of thirty-five years.

Computation  
of pension

(2) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, and while the former member is not in receipt of a disability pension under the *Canada Pension Plan* shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (5), until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

Pension for  
pre-1966  
credit

R.S.C. 1985,  
c. C-8

(3) When a former member,

CPP  
reduction

(a) who is in receipt of a pension attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*; or

- (b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of the pension computed under subsection (1) shall be reduced by the product of,

- (c) 0.7 per cent of the lesser of,

- (i) the former member's average annual salary, and

- (ii) the former member's average year's maximum pensionable earnings; and

- (d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

Early  
retirement  
reduction

(4) The annual amount of every pension provided for in subsection 16 (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (3) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (3) and shall, if applicable, be recalculated on that basis.

Idem, pre-  
1966 credit  
R.S.O. 1980,  
c. 419

R.S.C. 1985,  
c. C-8

(5) The annual amount of every pension provided for in subsection 16 (3) shall, after computation in accordance with subsection (2), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan* and, upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (3), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

Guarantee  
for pre-1966  
credit

(6) If the annual amount of pension computed in accordance with subsection (1),

- (a) less the reduction required by subsection (3) and, if applicable, subsection (5); and

- (b) plus,

- (i) the annual amount of any disability pension to the former member from the *Canada Pension Plan*, or

- (ii) the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age,

other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

- (c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and
- (d) has attained sixty-five years of age or is receiving a disability pension under the *Canada Pension Plan*,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (3) and, if applicable, subsection (5).

R.S.O. 1980,  
c. 419

(7) There shall be excluded from the period of time mentioned in subsection 16 (3) and subsections (2) and (6) any period of time for which a former member has credit in the Plan and for which the former member was employed by a person who did not, during or after that period of time, contribute to the Fund or a predecessor fund under the Plan or the *Public Service Superannuation Act*.

Exception to  
guarantee

(8) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

Reduction  
for survivor  
pension

1. Determine the present value of the pension payable to the former member and the spouse on the assumption that a survivor pension is payable to the spouse equal to one-half of the former member's pension computed in accordance with this section, other than this subsection, that the survivor pension is payable for the lifetime of the surviving spouse, and that, if the spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 19 (1).
3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

(9) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and,

Computation  
of partial  
year

- (a) any part of a month that is less than fifteen days shall be disregarded; and
- (b) any part of a month that is fifteen days or more shall be deemed to be a month.

18.—(1) The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and

Application  
for pension

such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof.

Payment

(2) Unless otherwise expressly provided in this Plan, a pension,

(a) is payable in monthly instalments for life; and

(b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

Commutation of pension

(3) If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 17 (4) and (5), is not more than,

R.S.C. 1985,  
c. C-8

(a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or

1987, c. 35

(b) such greater amount as is permitted by the *Pension Benefits Act*, 1987,

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

Pension to surviving spouse

19.—(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies.

Death before age sixty-five

(2) If a survivor pension under subsection (1) or subsection 21 (1) is payable as the result of the death of a former member before attaining sixty-five years of age and before the reduction of his or her pension in accordance with subsection 17 (3), the annual amount of pension on which the survivor pension is based shall be reduced in accordance with that subsection as though the former member had attained sixty-five years of age immediately before his or her death.

Waiver of survivor pension

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart,

(a) may elect that the spouse receive a survivor pension under subsection (1) of 50 per cent rather than 60 per cent if the member or former member and the spouse are not or were not living separate and apart when the member or former member ceases or ceased to be a member of the Plan; or

(b) may waive the spouse's entitlement to a survivor pension under subsection (1) if the member or former member and the spouse are or were living separate and apart when the member or former member ceases or ceased to be a member of the Plan,

by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, 1986, containing the election or waiver.

(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

Revocation  
of waiver or  
election

(5) The reduction required by subsection 17 (8) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member.

Reduction  
not to be  
made

(6) On the death of a spouse to whom a survivor pension is paid under this section, section 20 or 23, an annual amount of pension equal to that survivor pension is payable to or among such of the child or children of the former member on whose death the survivor pension became payable to the spouse as are, at the death of the spouse, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

Survivor  
pension to  
child on  
death of  
spouse

20.—(1) The amount of the survivor pension payable under section 19 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence.

Increased  
survivor  
pension

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age.

Idem

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan.

When  
direction not  
valid

(4) The annual amount of pension computed in accordance with section 17 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction and the increased survivor pension shall be paid in lieu of that provided for in section 19.

Actuarial  
reduction of  
pension

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence.

Revocation  
of direction

21.—(1) Subject to subsection 19 (2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 19, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 19 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death.

Post-  
retirement  
marriage

(2) A direction mentioned in subsection (1) must be delivered to the Board,

Time limit



- (a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or
- (b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

**Exception**

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.

**Actuarial reduction of pension**

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.

**Prior interest of child**

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

**Survivor pension on death before payment of pension**

22.—(1) If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan,

- (a) dies while a member of the Plan; or
- (b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value, as determined by the Board, of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,

- (c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;
- (d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or
- (e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

**Payment to spouse**

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

**Election by spouse**

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

- (a) a single lump sum payment equal to the commuted value payable under subsection (1); or
- (b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

Waiver of  
spouse's  
entitlement

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

Designation  
of beneficiary

**23.—**(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to one-half of the member's or former member's pension computed in accordance with section 17 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or service before 1987 is payable,

Survivor  
pension for  
pre-1987  
credit

- (a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or
- (b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

(2) Payment of a survivor pension under this section shall commence in the month following the month when the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse.

Payment

(3) For the purpose of this section and subsection 19 (6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of,

Exception for  
higher  
education

- (a) a secondary school; or
- (b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

**24.—**(1) In the formulas in this section,

Inflation  
adjustment

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year.

"D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

"E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

#### Definitions

(2) In this section,

"accumulated adjustment ratio", for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

"adjustment ratio", for the pension of a person, means,

- (a) for any year before the year 1976 and for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,
- (b) if the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan in or after the year 1975, for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

$$"[(D - 1.000) \times E / 12] + 1.000", \text{ and}$$

- (c) for the later of the year 1976 and the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the ratio determined by the formula " $A + B$ " calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for any year before the year 1976, for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and
- (b) for the later of the year 1976 and the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula " $A + B - C$ ";

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

"member" includes a contributor within the meaning of the *Public Service Superannuation Act* or a predecessor Act; R.S.O. 1980, c. 419

"pension" means a pension to which a person is entitled from the Plan other than the adjustment for inflation provided by this section, and an allowance, annuity, deferred annuity or other periodic payments to which a person has become entitled under the *Public Service Superannuation Act* or a predecessor Act; R.S.O. 1980, c. 419

"Plan" includes the pension plan established under the *Public Service Superannuation Act* and any predecessor Act.

(3) The annual amount of pension payable to a person from the Fund shall, commencing with the year when payment of the pension is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid. Payment of inflation adjustment

(4) The ratio determined for the year 1990 under the *Superannuation Adjustment Benefits Act* does not apply to a pension to which this section applies. Ratio not to apply R.S.O. 1980, c. 490

25.—(1) A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in subsection (2) and gives the notice of election required by subsection (3). Pre-retirement part-time employment

(2) The conditions referred to in subsection (1) are, Conditions

(a) that the employee's part-time employment must be and continue to be,

(i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or

(ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by subsection (3) and before the employee's retirement on the date provided for in the notice;

(b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by subsection (3) and before receiving a pension under the Plan;

(c) that during the period of part-time employment specified by the employee in the notice given in accordance with subsection (3), contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and

- (d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

## Notice

(3) A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating,

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;
- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

## Pension on basis of full-time employment

(4) Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in subsection (2),

- (a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;
- (b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and
- (c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

## Resuming full-time employment

(5) If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by subsection (3) and before receiving his or her pension, the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to subsection (4).

## Excess contributions refunded

(6) Contributions to the Fund under this section in excess of those required after the application of subsection (5) shall be refunded to the person who paid them.

Interpretation  
R.S.O. 1980,  
c. 418

(7) In this section, "public service" has the same meaning as in the *Public Service Act*.

## Re-employment of pensioner

26.—(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

- (a) three times the monthly salary paid to the former member in that period of three months; and
- (b) the pension payable to the former member in that period of three months if this section were not applicable to the former member,

exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.

(2) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan, and any pension payable on termination of the re-employment or engagement shall be recalculated to take into account the additional credit and any pension earlier received by the person. Idem

(3) Despite subsection (1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides. Re-employment in expert capacity

27.—(1) Every transaction that purports to assign, charge, anticipate or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void. Void transactions

(2) The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment. Exemption from seizure

(3) Subject to section 52 of the *Pension Benefits Act, 1987*, subsections (1) and (2) do not apply to prevent the operation of any order under the *Family Law Act, 1986* or the provisions of a domestic contract, as defined in Part IV of that Act. Order or separation 1987, c. 35 1986, c. 4

(4) Subsections (1) and (2) do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund. Order for support or maintenance

(5) Subsection (4) applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1989. Application of subs. (4)

(6) Despite subsections (1) and (2), if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid, Payment into other funds

(a) into another registered pension plan;

(b) into a registered retirement savings plan that meets the requirements of the *Income Tax Act* (Canada);

R.S.C. 1952,  
c. 148

(c) to an insurance company to purchase an immediate or deferred life annuity; or

(d) into a pension plan approved by the Board,

the refund or payment shall be so paid.

28.—(1) A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the Payment to estate

payment may be paid into the Supreme Court of Ontario to the credit of the member's estate.

Missing  
beneficiary

(2) If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.

Beneficiary  
later found

(3) If the spouse or child or designated beneficiary referred to in subsection (2) is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection (2), be paid to the spouse or child or designated beneficiary, as the case may be.

Board to be  
corporation

29.—(1) The Public Service Superannuation Board is continued under the name of the Public Service Pension Board and the Board is constituted a corporation without share capital.

Application  
of  
R.S.O. 1980,  
c. 95

(2) The *Corporations Act* does not apply to the Board.

Board  
members

(3) The Board shall be composed of at least four members appointed by the Lieutenant Governor in Council, one of whom shall be representative of the members of the Plan who are members of a union with whom the employer has a collective agreement.

Term of  
office

(4) Each appointment or reappointment of a Board member shall be for such term, not exceeding three years, as the Lieutenant Governor in Council specifies.

Idem

(5) If the Lieutenant Governor in Council considers it appropriate and desirable, members may be appointed to the Board because of their expertise in the management, investment or administration of pension plans or in order to represent on the Board, subject to the requirements of the *Pension Benefits Act, 1987*, the concerns of the Crown, of members required to contribute to the Fund or of persons receiving pensions under the Plan.

1987, c. 35

Reappointment

(6) A member whose appointment has expired may be reappointed to the Board, but no reappointment shall be for a term that, when added to the member's current unbroken period of membership, exceeds six consecutive years of membership.

Chairperson  
and vice-  
chairperson

(7) From the members of the Board, the Lieutenant Governor in Council may designate a chairperson and one or more vice-chairpersons for a term not to exceed two years or such lesser period as the person remains a member of the Board and, if the Lieutenant Governor in Council does not designate a chairperson or vice-chairperson within one month after the position becomes vacant, the members of the Board shall elect one of them to be chairperson, and may elect one or more of them to be vice-chairperson, but the term for which any chairperson or vice-chairperson is elected shall not exceed two years or the remaining period of his or her appointment to the Board, whichever is shorter.

**30.** The Lieutenant Governor in Council shall establish the remuneration or range of remuneration to be paid to a member of the Board and to the chairperson and vice-chairperson, but no member of the Board who is employed in the public service of Ontario shall be paid any remuneration other than reimbursement for expenses actually incurred in the performance of his or her duties as a member of the Board or an honorarium in recognition of salary lost by the public servant for attendance at a meeting of the Board.

Remuneration

**31.—(1)** It is the duty and responsibility of the Board to administer the Plan and manage the Fund in accordance with this Act, the Plan and the *Pension Benefits Act, 1987*.

Duty of Board

1987, c. 35

**(2)** The Board shall appoint or employ an actuary, an auditor and such officers, employees, advisers, experts and other persons as are required to carry out the duties and responsibilities of the Board.

Employment of officers and others

**(3)** The Board may make rules and by-laws for the administration and management of the Plan and the Fund and for the conduct of the affairs of the Board and committees of the Board, and may, for such period as the Board determines and on such terms and conditions as the Board considers appropriate, assign or delegate to any officer, employee, member or committee of the Board or other person retained by the Board the performance or exercise of any of the duties or responsibilities of the Board as the Board considers necessary or desirable.

Board may make rules

**(4)** Without restricting the generality of subsection (3), the Board may make rules,

Idem

- (a) prescribing the proofs to be furnished as a condition to the payment of a pension;
- (b) excluding from salary on which contributions to the Fund are based any payment to a member that is, in the opinion of the Board, not a regular and usual part of the normal remuneration for the member's employment or is a payment in the nature of a special consideration or employee benefit;
- (c) approving forms and providing for their use; and
- (d) requiring members of the Plan, recipients of pensions under the Plan or applicants for pensions under the Plan to furnish information to or for the use of the Board, and prescribing the form thereof and the information to be furnished.

**32.** The Board has and may exercise all of the powers and capacities of a natural person that are considered by the Board to be necessary or incidental to the carrying out of its duties and responsibilities under this Act and the Plan and, in particular, the Board may,

Powers of Board

- (a) contract and be contracted with and sue and be sued;
- (b) acquire by purchase, lease or otherwise any real or personal property for its own use or as an investment of the Fund, and may sell, lease or otherwise dispose of all or any part of its property in its discretion;
- (c) participate with others as a partner or as a member of a syndicate or association of persons in the acquisition, holding, management or disposition of any property by way of investment or otherwise;



- (d) determine the rate of remuneration and the employee benefits and perquisites for its employees and the conditions of employment under which they are employed;
- (e) with the approval of the Management Board of Cabinet, enter into such arrangements as are considered necessary by the Board for the purchase from the Crown of the services of any employee or ministry of the Crown, or for the use of any facilities or equipment belonging to the Crown, that may assist the Board in the management or administration of the Plan or the Fund; and
- (f) with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any other pension plan or fund or administer a benefit plan to provide health or medical or other benefits to persons who have ceased to be members of the Plan and are entitled to a pension, and to recover, where appropriate, the costs of such administration from that plan or fund.

Committees      33.—(1) The Board may establish such committees as are considered necessary or desirable.

Committee may delegate      (2) A committee established by the Board may, with the approval of the Board and in accordance with the policy established by the committee or the Board, delegate to an officer or employee of the Board any of the duties and responsibilities of the committee, including those delegated to the committee by the Board.

Quorum      34. The quorum for any meeting of the Board or a committee of the Board shall be at least a majority of the members of the Board or committee.

Expenses      35. The expenses of the operation of the Board, the administration of the Plan and the management of the Fund shall be paid out of the Fund.

Reciprocal transfer agreements continue to apply  
R.S.O. 1980, c. 419      36.—(1) Any agreement in writing between a person and the Minister or the Crown for the reciprocal transfer of pension credits between the Public Service Superannuation Fund established under the *Public Service Superannuation Act* and another pension plan continues to apply to the Plan with all necessary modifications.

Transfer to Plan of credit in other plans      (2) If the Board enters into a written agreement with an employer to whom the Plan does not extend for the transfer to the Plan of credit for a person's service with that employer, the person shall, on becoming a member and requesting a transfer of credit to the Plan in accordance with the agreement, pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

Transfer to other plan of credit in Plan  
R.S.C. 1952, c. 148      (3) If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the Plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.

Transfer agreements prevail      (4) Subsections (1) to (3) apply despite section 11 or 13.

(5) The Board shall not enter into an agreement mentioned in subsection (2) or (3) until the agreement is approved by the Lieutenant Governor in Council. Approval of agreements

37. After the close of each fiscal year, the Board shall submit to the Minister a report for the fiscal year just ended of the financial and other affairs of the Plan and the Fund, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next session. Annual report

38.—(1) In the reports to the Minister under section 37, the Board shall identify, Report re O.P.P. early retirement benefit

- (a) the additional cost to the Plan of the pension provided to members of the Ontario Provincial Police Force by subsection 15 (4) over the cost of the pension or deferred pension that would be payable without that subsection; and
- (b) the financial benefit to the Plan from the contributions of members of the Ontario Provincial Police Force under subsection 6 (2), from the employer's contributions made to match contributions under that subsection, and from the return reasonably attributable to the investment of the contributions and of the proceeds received by the Fund from the transfers under subsections 7 (2) and (3) of this Act.

(2) The Board shall also indicate in its reports the sufficiency of the financial benefits referred to in clause (1) (b) to meet the additional costs referred to in clause (1) (a) and whether those additional costs for pensions that are being paid at the end of the year for which the report is made have been met by the financial benefits that have then accrued to the Fund. Idem

39.—(1) Each employee of the Board and his or her heirs, executors and administrators shall be indemnified and saved harmless by the Board from and against all costs, charges and expenses sustained or incurred in or about any action, suit, proceeding or claim against him or her for any act, omission, deed, matter or other thing made, done or permitted or omitted to be made or done in or about the execution of the duties of his or her employment by the Board, and every payment made for the indemnification is an administrative expense of the Board. Indemnification

(2) Indemnification under subsection (1) does not extend to the act or omission to act of any person that was done or omitted to be done dishonestly or in bad faith. Limitation

## SCHEDULE 2

## INTERIM PAYMENTS OF UNFUNDED LIABILITY

	<i>Date of payment</i>	<i>Amount of payment</i>
1.	January 1, 1990	\$7,283,000
2.	February 1, 1990	7,316,000
3.	March 1, 1990	7,349,000
4.	April 1, 1990	7,381,000
5.	May 1, 1990	7,414,000
6.	June 1, 1990	7,448,000
7.	July 1, 1990	7,481,000
8.	August 1, 1990	7,514,000
9.	September 1, 1990	7,548,000
10.	October 1, 1990	7,582,000
11.	November 1, 1990	7,616,000
12.	December 1, 1990	7,650,000
13.	January 1, 1991	7,684,000
14.	February 1, 1991	7,718,000
15.	March 1, 1991	7,753,000
16.	April 1, 1991	7,787,000
17.	May 1, 1991	7,822,000
18.	June 1, 1991	7,857,000
19.	July 1, 1991	7,892,000
20.	August 1, 1991	7,928,000
21.	September 1, 1991	7,963,000
22.	October 1, 1991	7,999,000
23.	November 1, 1991	8,034,000
24.	December 1, 1991	8,070,000
25.	January 1, 1992	8,106,000
26.	February 1, 1992	8,143,000
27.	March 1, 1992	8,179,000
28.	April 1, 1992	8,216,000
29.	May 1, 1992	8,252,000
30.	June 1, 1992	8,289,000
31.	July 1, 1992	8,326,000
32.	August 1, 1992	8,364,000
33.	September 1, 1992	8,401,000
34.	October 1, 1992	8,439,000
35.	November 1, 1992	8,476,000
36.	December 1, 1992	8,514,000